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of Correction

MARTIN & FERRARO, LLP
ATTORNEYS AT LAW
1557 Lake O'Pines Street, NE
Hartville, Ohio 44632

Telephone
(330) 877-0700

Facsimile
(330) 877-2030

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TO:

Name: Office of Patent Publication
Certificate of Corrections Branch

Firm: U.S. Patent & Trademark Office

Fax No.: 571-273-8300

FROM:

Name: Thomas H. Martin

Phone No.: 330-877-2277

No. of Pages (including this): 13

Subject: Request for Certificate of Correction
U.S. Patent No. 7,166,129
Issued: January 23, 2007
Gary Karlin Michelson
METHOD FOR FORMING A SPINAL IMPLANT SURFACE CONFIGURATION
Attorney Docket No.: 101.0084-02000
Customer No. 22882

Date: February 9, 2007

Confirmation Copy to Follow: No

Message:

CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that the attached Request for Certificate of Correction with 1 sheet of Form PTO-1050 (in duplicate) and 8 sheets of supporting documents are being facsimile transmitted to the U.S. Patent and Trademark Office on February 9, 2007.

Sandra L. Blackmon

FEB 15 2007

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PATENT
Attorney Docket No. 101.0084-02000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent of:	)	
Gary Karlin Michelson	)	
Patent No. 7,166,129	)	(Application No.: 09/921,851)
Issue Date: January 23, 2007	)	(Filed: August 3, 2001)
For: METHOD FOR FORMING A SPINAL IMPLANT SURFACE CONFIGURATION	)	

Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REQUEST FOR CERTIFICATE OF CORRECTION

Pursuant to 35 U.S.C. § 254 and 37 C.F.R. § 1.322, this is a request for the issuance of a Certificate of Correction in the above-identified patent. Two (2) copies of PTO Form 1050 are appended. The complete Certificate of Correction involves one (1) page.

The mistakes identified in the appended Form occurred through the fault of the Patent Office, as clearly disclosed by the records of the application which matured into this patent, and as evidenced in the attached copies of the following documents:

1. Form PTO-1449 dated September 12, 2003 listing the missing reference; and the first page of an Information Disclosure Statement initialed on December 2, 2003 showing the Examiner's consideration of the missing reference;
2. Pages 8 and 9 of the July 17, 2006 Amendment, showing the correct language of issued claim 7 (pending claim 229), and issued claims 29-31 (pending claims 236-238, respectively);
3. Pages 3-5 of the July 17, 2006 Amendment, showing the correct language of issued claim 23 pending claim 130), and issued claim 35 (pending claim 214); and

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4. Page 10 of the July 17, 2006 Amendment, showing the correct language of issued claim 42 (pending claim 242).

Issuance of the Certificate of Correction containing the correction is earnestly requested.

Respectfully submitted,

MARTIN & FERRARO, LLP

Dated: February 9, 2007

By: 
Thomas H. Martin
Registration No. 34,383

1557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: (330) 877-0700
Facsimile: (330) 877-2030

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PAGE 3/13 * RCVD AT 2/9/2007 10:23:37 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-2/16 * DNIS:2738300 * CSID:3308772030 * DURATION (mm-ss):03-44

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PTO/SB/44 (04-05)
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,166,129
APPLICATION NO.	:	09/921,851
ISSUE DATE	:	January 23, 2007
INVENTOR(S)	:	Gary K. Michelson

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title Page 2:
Item (56), U.S. Patent Documents, after "6,432,106 B1 8/2002 Fraser" insert the following:
– 6,482,233B1 11/2002 Aebi –.

Column 11, line 55:
Change "farming" to – forming –.

Column 13, line 37:
Change "cub-step" to – sub-step –.

Column 14:
Line 8: change "fine" to – line –;
Line 15: change "farming" to – forming –;
Lines 19 and 60: change "feast" to – least –; and
Lines 63 and 65: change "facet" to – facet, –.

Column 15:
Line 5: change "culling" to – cutting –;
Line 33: change "Interbody" to – Interbody –; and
Line 50: change "implant" to – implant: –.

Mailing Address of Sender:
Martin & Ferraro, LLP
1557 Lake O'Pines Street, NE
Hartville, Ohio 44632

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PTO/SB/44 (04-05)
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UNITED STATES PATENT AND TRADEMARK OFFICE
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ISSUE DATE	:	January 23, 2007
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OMB 0651-0031

Substitute for FORM PTO-1449	Attorney Docket Number 101.0084-02000	Customer No. 22882	
INFORMATION DISCLOSURE CITATION IN AN APPLICATION	Applicant Gary K. Michelson, M.D.	Application Number 09/921,851	
(Use several sheets if necessary) Sheet 1 of 1	Filing Date August 3, 2001	Group Art Unit 3738	Examiner B. Snow

U.S. PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
		6,482,233	11/2002	Aebi et al.			

FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION (YES/NO)

OTHER DOCUMENTS ***(Including Author, Title, Date, Pertinent Pages, Etc.)***

EXAMINER	DATE CONSIDERED

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP § 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to the applicant.

PAGE 6/13 * RCVD AT 2/9/2007 10:23:37 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-2/16 * DNIS:2738300 * CSID:3308772030 * DURATION (mm-ss):03-44

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PATENT
Attorney Docket No. 101.0084-02000
Customer No. 22882

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICIAL

In re Application of:
Gary K. Michelson, M.D.
Serial No.: 09/921,851
Filed: August 3, 2001
For: SPINAL IMPLANT SURFACE CONFIGURATION

Group Art Unit: 3738
Examiner: B. Snow
Confirmation No. 8299

Mail Stop: RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. § 1.97(b)

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), applicant brings to the attention of the Examiner the documents listed on the attached PTO 1449. This Information Disclosure Statement is being filed concurrently with a Request for Continued Examination for the above-referenced application.

A copy of the listed document is attached.

Applicant brings to the Examiner's attention the following U.S. co-pending application of applicant; the claims and drawings of which are attached hereto:

NOT FOR PUBLICATION			
Examiner Initial	Application Number	Filing Date	Publication/ Patent No.
BSK	09/572,518	17MAY00	N/A
BSK	6,482,233	11/2002	Aebi et al

12/2/03

Received from <3102862795> at 9/12/03 7:21:55 PM [Eastern Daylight Time]

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229. (previously presented) The method of claim 221, wherein the step of forming includes forming said at least two surface projections to have substantially the same maximum height from the surface of said implant.

230. (previously presented) The method of claim 221, wherein the step of providing the implant includes providing an implant having at least one opening in each of the upper and lower surfaces in communication with one another, the openings being configured to permit for the growth of bone from vertebral body to adjacent vertebral body through the implant.

231. (previously presented) The method of claim 230, further comprising the step of combining the implant with at least one of harvested bone, bone morphogenetic proteins, hydroxyapatite, and genes coding for the production of bone.

232. (previously presented) The method of claim 230, wherein the step of providing the implant includes providing an implant having an internal chamber between the upper and lower surfaces and in communication with the at least one opening in each of the upper and lower surfaces, the internal chamber being adapted to contain bone growth promoting materials.

233. (previously presented) The method of claim 232, further comprising the step of combining the implant with at least one of harvested bone, bone morphogenetic proteins, hydroxyapatite, and genes coding for the production of bone.

234. (previously presented) The method of claim 221, wherein the step of forming the plurality of surface projections includes using a milling instrument.

235. (previously presented) The method of claim 234, wherein the milling instrument includes a cutting tool with a V-shaped profile.

236. (previously presented) The method of claim 126, wherein at least a fifth and sixth of said surface projections formed during the step of forming each have a third facet configuration with at least one forward facet directed at least in part toward the leading end and at least one rearward facet directed at least in part toward the trailing end, said forward facet and said rearward facet of said third facet configuration having a length and a slope, the length of said forward facet of said

PAGE 8/13 * RCVD AT 2/9/2007 10:23:37 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-2/16 * DNIS:2738300 * CSID:3308772030 * DURATION (mm-ss):03-44

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third facet configuration being longer than the length of said rearward facet of said third facet configuration, the slope of said rearward facet of said third facet configuration being steeper than the slope of said forward facet of said third facet configuration, said fifth and sixth surface projections each having a peak along a third line that is transverse to the mid-longitudinal axis and off-set from the first and second lines, the third facet configuration of the fifth and sixth surface projections being different from the first facet configuration of the first and second surface projections and the second facet configuration of the third and fourth surface projections.

237. (previously presented) The method of claim 126, wherein the step of forming includes forming said forward facets of said first and second surface projections to face the same direction.

238. (previously presented) The method of claim 126, wherein the step of forming includes forming at least one of the surface projections along the first line to have a maximum height from the surface of the implant that is substantially the same as the maximum height of one of the surface projections along the second line.

239. (previously presented) The method of claim 126, wherein the step of forming includes forming at least three surface projections having the first facet configuration along the first line and forming at least three surface projections having the second facet configuration along the second line.

240. (previously presented) The method of claim 126, wherein the step of forming includes forming at least four surface projections having the first facet configuration along the first line and forming at least four surface projections having the second facet configuration along the second line.

241. (previously presented) The method of claim 126, wherein the step of forming includes forming at least five surface projections having the first facet configuration along the first line and forming at least five surface projections having the second facet configuration along the second line.

PAGE 9/13 * RCVD AT 2/9/2007 10:23:37 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-2/16 * DNIS:2738300 * CSID:3308772030 * DURATION (mm-ss):03-44

FEB 15 2007

having at least a first portion in a plane passing through and being at an angle to the mid-longitudinal axis of the implant, said first and second surface projections each having a peak along a first line that is transverse to the mid-longitudinal axis of said implant; and

at least a third and fourth of said surface projections each having a second facet configuration with at least one forward facet directed at least in part toward the leading end and at least one rearward facet directed at least in part toward the trailing end, said forward facet and said rearward facet of said second facet configuration having a length and a slope, the length of said forward facet of said second facet configuration being longer than the length of said rearward facet of said second facet configuration, the slope of said rearward facet of said second facet configuration being steeper than the slope of said forward facet of said second facet configuration, said third and fourth surface projections each having a peak along a second line that is transverse to the mid-longitudinal axis and off-set from the first line transverse to the mid-longitudinal axis, the second facet configuration of the third and fourth surface projections being different from the first facet configuration of the first and second surface projections.

127. (previously presented) The method of claim 126, wherein the step of forming includes one of the sub-steps of grinding, milling, burning, lasering, burnishing, electric discharge machining, broaching, and machining to form said surface projections.

128. (previously presented) The method of claim 126, wherein the steps of providing and forming include the sub-step of casting to form said implant with said surface projections.

129. (previously presented) The method of claim 126, wherein said forming step includes the sub-step of orienting said projections relative to one another to form an array.

130. (previously presented) The method of claim 126, wherein said forming step includes the sub-step of orienting said projections to be geometrically disposed

PAGE 10/13 * RCVD AT 2/9/2007 10:23:37 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-2/16 * DNIS:2738300 * CSID:3308772030 * DURATION (mm-ss):03-44

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relative to one another.

Claims 131-206 (cancelled).

207. (previously presented) The method of claim 126, wherein the step of providing the implant includes providing an implant having at least one opening in each of the upper and lower surfaces in communication with one another, the openings being configured to permit for the growth of bone from vertebral body to adjacent vertebral body through the implant.

208. (previously presented) The method of claim 207, further comprising the step of combining the implant with at least one of harvested bone, bone morphogenetic proteins, hydroxyapatite, and genes coding for the production of bone.

209. (previously presented) The method of claim 207, wherein the step of providing the implant includes providing an implant having an internal chamber between the upper and lower surfaces and in communication with the at least one opening in each of the upper and lower surfaces, the internal chamber being adapted to contain bone growth promoting materials.

210. (previously presented) The method of claim 209, further comprising the step of combining the implant with at least one of harvested bone, bone morphogenetic proteins, hydroxyapatite, and genes coding for the production of bone.

Claims 211-212 (cancelled).

213. (previously presented) The method of claim 126, wherein the step of forming the plurality of surface projections includes using a milling instrument.

214. (previously presented) A method for forming an interbody spinal implant having an exterior surface with a plurality of bone engaging structures for insertion between adjacent vertebral bodies of a human spine, the method comprising the steps of:

providing the implant comprising a leading end for introduction of the spinal implant into the spine, an opposite trailing end, spaced apart sides therebetween, and a mid-longitudinal axis passing through the leading and trailing ends, opposite upper and lower surfaces between said leading and

PAGE 11/13 * RCVD AT 2/9/2007 10:23:37 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-2/16 * DNIS:2738300 * CSID:3308772030 * DURATION (mm-ss):03-44

FEB 15 2007

trailing ends and said spaced apart sides, said upper surface adapted for placement toward the bone of one of the vertebral bodies and said opposite lower surface adapted for placement toward the bone of the other of the vertebral bodies when the implant is placed between the adjacent vertebral bodies; and

forming surface projections as part of the upper and lower surfaces of the implant with a milling instrument, at least two of said surface projections each having at least one forward facet directed at least in part toward the leading end and at least one rearward facet directed at least in part toward the trailing end, said forward facet and said rearward facet having a length and a slope, the length of said forward facet being longer than the length of said rearward facet, the slope of said rearward facet being steeper than the slope of said forward facet, said at least two of said surface projections having opposed side facets between said forward facet and said rearward facet, said side facets having at least a first portion in a plane passing through and being at an angle to the mid-longitudinal axis of the implant, said forward facets of said at least two of said surface projections facing the same direction, wherein the milling instrument includes a cutting tool with a V-shaped profile.

215. (previously presented) The method of claim 214, wherein the step of providing the implant includes providing an implant having at least one opening in each of the upper and lower surfaces in communication with one another, the openings being configured to permit for the growth of bone from vertebral body to adjacent vertebral body through the implant.

216. (previously presented) The method of claim 215, further comprising the step of combining the implant with at least one of harvested bone, bone morphogenetic proteins, hydroxyapatite, and genes coding for the production of bone.

217. (previously presented) The method of claim 215, wherein the step of providing the implant includes providing an implant having an internal chamber between the upper and lower surfaces and in communication with the at least one

PAGE 12/13 * RCVD AT 2/9/2007 10:23:37 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-2/16 * DNIS:2738300 * CSID:3308772030 * DURATION (mm-ss):03-44

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242. (previously presented) A method for forming an interbody spinal implant having an exterior surface with a plurality of bone engaging structures for insertion between adjacent vertebral bodies of a human spine, the method comprising the steps of:

providing the implant comprising a leading end for introduction of the spinal implant into the spine, an opposite trailing end, spaced apart sides therebetween, and a mid-longitudinal axis passing through the leading and trailing ends, opposite upper and lower surfaces between said leading and trailing ends and said spaced apart sides, said upper surface adapted for placement toward the bone of one of the vertebral bodies and said opposite lower surface adapted for placement toward the bone of the other of the vertebral bodies when the implant is placed between the adjacent vertebral bodies; and

forming surface projections as part of the upper and lower surfaces of the implant:

at least a first and second of said surface projections each having a first facet configuration with at least one forward facet directed at least in part toward the leading end and at least one rearward facet directed at least in part toward the trailing end, said forward facet and said rearward facet having a length and a slope, the length of said forward facet being longer than the length of said rearward facet, the slope of said rearward facet being steeper than the slope of said forward facet, said first and second surface projections each having a peak along a first line that is transverse to the mid-longitudinal axis of said implant; and

at least a third and fourth of said surface projections each having a second facet configuration with at least one forward facet directed at least in part toward the leading end and at least one rearward facet directed at least in part toward the trailing end, said forward facet and said rearward facet of said second facet configuration having a length and a slope, the length of said forward facet

PAGE 13/13 * RCVD AT 2/9/2007 10:23:37 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-2/16 * DNIS:2738300 * CSID:3308772030 * DURATION (mm-ss):03-44

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